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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,168	01/28/2004	John P. Cunningham	71441.0001	2136

57362 7590 11/28/2006

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WASHINGTON, DC 20004

EXAMINER

JOHNSON, VICKY A

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,168

Applicant(s)

CUNNINGHAM, JOHN P.

Examiner

Vicky A. Johnson

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear how the limitations of the hydraulic system further limit the spring-loaded device. The independent claim 1 recites the intended use of the spring-loaded device, but does not positively claim the hydraulic system. Therefore, it is unclear what is being claimed, a spring-loaded device or a hydraulic system.

For this office action, the limitations of the spring-loaded device will be considered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kittler (US 4,114,809).

Kittler discloses a spring loaded device assembly including a spring loaded device (92), said spring loaded device assembly comprising: means (106) for preventing swivel of the spring loaded device when attached to a system.

Re claim 10, said swivel preventing means comprises: a rigid mounting member (106) having two ends, a first end being attached to one end of the spring loaded device, and a second end being attached to said hydraulic system (see Fig 1).

Re claim 11, said spring loaded device assembly comprising: a rigid mounting member (106) having two ends, a first end being attached to one end of the spring loaded device, and a second end being attached to a system to prevent swivel of said spring loaded device (see Fig 1).

Re claim 12, wherein said two ends of said mounting member are vertical portions connected by a horizontal portion (see Fig 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fawcett (US 4,223,564) in view of Kittler (US 4,117,809).

Fawcett discloses a spring loaded device assembly comprising: said spring loaded device including: a spring mechanism (40) disposed in an outer tubular member (36); an inner tubular member (38) movably disposed in one end of said outer tubular member; an adjustment rod (26) movably disposed in said inner tubular member (see Fig 2); a clevis (30) attached to a distal end of said adjustment rod for attachment, and a rigid mounting member (54).

Fawcett does not disclose the rigid mounting member having two ends, a first end being attached to another end of said outer tubular member, and a second end being attached to a system to prevent swivel of said spring loaded device.

Kittler teaches the use of a rigid mounting member (106) having two ends, a first end being attached to another end of said outer tubular member, and a second end being attached to a system to prevent swivel of said spring loaded device (col. 4 lines 48-62).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Fawcett by replacing the rigid mounting member with the mounting member as taught by Kittler in order to securely fix the spring device.

Re claim 2, Kittler shows said mounting member includes a threaded hole through which a bolt (108) is threaded into said another end of said outer tubular member.

Re claim 7, Fawcett disclose said spring loaded device including: a spring mechanism (40) disposed in an outer tubular member (36); an inner tubular member (38) movably disposed in one end of said outer tubular member; an adjustment rod (26) movably disposed in said inner tubular member; a clevis (30) attached to a distal end of said adjustment rod for attachment to a hydraulic system; and Kittler shows and renders obvious means (106) for providing rigidity to the spring loaded device when attached to said hydraulic system.

Re claim 8, said rigidity means comprises: a mounting member (106) having two ends, a first end being attached to another end of said outer tubular member, and a second end being attached to a system to prevent swivel of said spring loaded device (see Fig 1).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


5,191,866	Tosdale	(spring device)
4,911,312	Jeruzal	(spring device)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (571) 272-7106. The examiner can normally be reached on Monday-Friday (7:00a-3:30p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6217. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3682

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Vicky A. Johnson 11/26/84
Primary Examiner
Art Unit 3682